

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF HUMAN RIGHTS

State of Minnesota by
Velma J. Korbøl, Commissioner,
Department of Human Rights,

PROTECTIVE ORDER

Complainant,

vs.

Abercrombie & Fitch,

Respondent.

This matter is pending before Administrative Law Judge Kathleen D. Sheehy pursuant to a Notice of and Order for Hearing from the Department of Human Rights. This Order is issued in connection with the ongoing discovery between the parties and the resolution of various motions including discovery of documents and data which are classified as private, confidential, nonpublic or protected nonpublic or otherwise "not public" under the Minnesota Government Data Practices Act (Minn. Stat. Chap. 13).

Margaret Jacot, Assistant Attorney General, appeared for the Department. Ian S. Laurie, Laurie & Laurie, P.A., appeared for the Intervenor. Stacia Marie Jones, Vorys, Sater, Seymour and Pease, LLP, appeared for the Respondent..

Pursuant to Minn. Stat. § 13.03, subd. 6, and the files and proceedings herein, the Administrative Law Judge finds that the testimony and evidence to be adduced at the hearing in this matter may include data that is classified as "not public." Therefore in order to protect the data,

IT IS HEREBY ORDERED:

1. Data that is classified as "not public" under Minn. Stat. Ch. 13, or Minn. Stat. Ch. 363A, or other applicable law, contained in the Department's case files, or data that is produced by any party that is personal or confidential, and which is produced in the course of discovery or offered as evidence at hearing, shall not be disclosed in the course of this proceeding except as follows:

- (a) To the parties in this matter or attorneys representing the parties or their employees assisting counsel in the preparation of the case;
- (b) To witnesses subpoenaed or otherwise called to testify at the hearing.

2. "Not public" data may be used only for purposes of this litigation, including discussion with investigators, employees and witnesses as necessary to prepare for or conduct the hearing, and shall not be disclosed to individuals or for purposes not set forth herein.

3. All persons having access to "not public" data herein shall be informed of the Protective Order and are bound by its terms. Each attorney bears full responsibility for compliance with this Order by persons to whom they have disclosed "not public" information.

4. The parties shall clearly designate "not public" information to avoid inadvertent disclosure. "Not public" documents shall be kept in a separate file or envelope so marked. The originals and copies of deposition or hearing transcripts, or portions thereof, containing "not public" data shall bear the legend "CONFIDENTIAL OR NOT PUBLIC DATA" and shall be maintained in a separate file or envelope. In lieu of segregating confidential or not-public data, the party producing it may redact the confidential or not public portions, but it must clearly mark any redacted documents with the legend "CONFIDENTIAL OR NOT PUBLIC DATA REDACTED," and it must identify the nature of the redacted data.

5. Upon appropriate request of the parties, portions of the hearing in this matter will be closed and the hearing record will be sealed to the extent needed to permit free discussion of not public data.

6. Should any party seek to use the information subject to this Order in a manner inconsistent with this Order, that party shall bring a motion before the Administrative Law Judge with notice to the other party, requesting permission to use the information and detailing the reasons for the request.

7. This Protective Order may be modified or amended by agreement of the parties and notice to the Administrative Law Judge, or upon application to the Administrative Law Judge for good cause shown.

8. Nothing in this order is intended to limit the availability of judicial review of the final order as provided by Minn. Stat. §§ 14.63-.69.

Dated: May 21, 2008

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge